

The Virgin Islands Consortium

Blockade: Federal Government Now Demanding Priority Over VI Bondholders Before Releasing \$500 Million Loan

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ST. THOMAS -- The Legislature of the Virgin Islands on Wednesday took no action on a bill aimed at authorizing the Government of the Virgin Islands to receive hundreds of millions of dollars in low-interest loans from the federal government. Instead, the Committee of the Whole meeting served as an information-gathering event.

But what was once an authorization for a community disaster loan through the Federal Emergency Management Agency (FEMA) to the local government that lawmakers were ready to quickly pass, now includes a sticking point that has placed the senators in an

almost impossible position.

In a transmittal letter sent to the Legislature on the eve of the Committee of the Whole hearing, Governor Kenneth Mapp informed the 32nd Legislature that the U.S. Treasury and FEMA were requiring priority payments from the Matching Fund Revenue (MFR) and Gross Receipt Tax (GRT) bonds over the Government of the Virgin Islands' current bondholders.

"We are advised by representatives of FEMA and the Treasury, that the federal government was insisting on the highest priority security available to secure the community disaster loan commissary notes. Over the last three weeks, my financial team has worked tirelessly with FEMA and the Treasury to explain the entering into such borrowing could impair the government's existing outstanding Gross Receipt Tax revenue bonds, Matching Fund Revenue bonds, and the other general obligation secured indebtedness. Given the government's existing contractual commitments, the government is hesitant to grant a priority lien on such general obligation, notwithstanding the federal government will not accept a subordinate lien position on the government's general obligation debt," reads a portion of the transmittal letter.

"Both FEMA and the U.S. Department of Treasury insist that for the first tranche of the \$300 million community disaster loan promissory note, they will only accept senior lien GRT bonds for the first half of the community disaster promissory note, and the senior lien MFR bonds for the second half. While the original bill submitted to the Legislature authorized the government to pledge such other securities as the governor or the commissioner of Finance shall deem necessary, the decision by the U.S. government requiring a senior lien position on GRT bonds and MFR bonds, now compels me to submit a bill in the nature of a substitute, to authorize the position requested of the U.S. government," the letter continued.

The federal government's request places the local government in a precarious position; not too long ago, senators, through the request of the Mapp administration, passed a law that placed a lien on the territory's bonds, requiring bondholders to be paid first -- even before the territory could satisfy essential needs -- as a way to bolster the bond market's confidence in the USVI's ability to pay its debts.

In essence, lawmakers gave bondholders [a chokehold](#) on the territory's finances, as they would be paid first no matter what trouble the territory faces. If, for example, the Virgin Islands spirals into financial ruin, per the 2016 lien commitment, the government would not be able to pay, say, teachers and other essential employees; it would not be able to do anything in the way of payments to its own government and essential services, unless bondholders were first financially satisfied.

Now, the federal government is requiring that it be paid over the bondholders; a move that would destroy any remaining confidence the market has for the territory. It could also result in a string of lawsuits.

Asked about the dilemma, Mr. Jackson said, "That's the big question; that's the position that they [the federal government] have put us in."

Mr. Jackson added, "It's like they dig a hole and you got to jump in it. It's not even a hole; they put us in a trench."

Servicing a great portion of the USVI's debt is the Matching Fund Revenue bonds, or rum cover over funds, which are taxes collected yearly by the U.S. Department of Interior on behalf of the local government from Captain Morgan Distillery (Diageo) and Cruzan Rum Distillery rum sales. This year, [the total sum was \\$224 million](#), up from almost \$203 million the year prior.

The majority of the funds, however, never arrive in the coffers of the U.S. Virgin Islands government. Instead, the funds are transferred directly to the bondholders, leaving the territory with a fraction of the total sum — \$48 million this year. Of the remaining \$48 million, \$18 million went to the government's general fund, and the remainder to Cruzan Rum and Diageo for promotional fees and molasses subsidies, as per the 2007 agreement. The local government was left with only \$30 million from the \$224 million.

The territory's other source of income that it uses to pay debt is GRT bonds. GRT collection is reliant on the condition of the economy. If things are booming, the higher the collection, however, if the economy is struggling, it is reflected in lower GRT collections.

Senator Tregenza Roach was ready to move forward with approval of the measure, but after learning of the new stipulations, he said, "I was inclined to go forward because I know we need the revenues at this time, but this is absolutely troubling me."

Mr. Jackson told The Consortium that the Mapp administration had failed to involve the Legislature in hurricane recovery discussions.

"The legislature is the board within the structure of this FEMA recovery. However, our engagement at the table has not been on equal terms. So you're coming to us after you've sat and had these discussions, and then tell us ratify, and that doesn't sit well with the members of the 32nd Legislature. Engage us in the process so that we're fully aware and likewise have an opportunity participate in the process," he said.

Mr. Jackson said the Senate will have to revisit statutes that seemingly give the executive branch almost complete exclusivity in responding to emergencies. "Because with all due respect, I appreciate all that the governor has done, and he works within the powers that have been provided to him and the mandate of his position, and likewise the laws that have been passed that provides him the latitude or restrictions to govern.

"So when we revisit the emergency operation and how we respond to disasters in the territory, we have to really look at the length and period and how those engagements are made with the Legislature as representatives of the people of this territory. That likewise sit at the table as these decisions are to be determined and have consensus even if we may disagree. Because right now it's just one man, and that's the governor.

"We are technically the board that you're coming to for approval, but the board was not consulted prior to the submittal. So the president of the Legislature was not engaged in this process, or briefed during the process; the briefing was yesterday."

As for the fate of the measure, Mr. Jackson was uncertain what would be the end result. "That's the big question, sir. We understand the financial strain and the financial crisis that this territory is experiencing, and it's going to be very interesting," he said of today's

upcoming session. "We are not comfortable with the structure of the proposed language," Mr. Jackson said.

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